

CITY COUNCIL INTRODUCTION DRAFT
All New Language
August 18, 2009

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SANTA BARBARA AMENDING TITLE NINE OF THE
SANTA BARBARA MUNICIPAL CODE TO ENACT A
REVISED ORDINANCE PROHIBITING ABUSIVE
PANHANDLING BY AMENDING AND REVISING SANTA
BARBARA MUNICIPAL CODE CHAPTER 9.50

The Council of the City of Santa Barbara does ordain as follows:

SECTION ONE: Chapter 9.50 of Title Nine of the Santa Barbara Municipal Code is hereby amended in its entirety to read as follows:

9.50.010 Purpose.

In order to protect and promote the rights of the general public to be free from inappropriate conduct and from the potential physical confrontations sometimes associated with panhandling, the City Council finds that there is a need to adopt a City ordinance which imposes reasonable and specific time, place, and manner limitations on those forms of inappropriate and unlawful conduct which may be associated with aggressive panhandling. At the same time, the Council seeks to properly and duly recognize, as well as fully protect to the full extent possible, the First Amendment free speech rights of all concerned.

The Council also finds that balancing the need for public safety with the need to duly protect constitutional rights is especially critical in certain popular retail and visitor-serving areas of the City, such as Cabrillo Boulevard, lower Milpas Street, and certain blocks of State Street (those within the City Central Business District) since these areas are popular public gathering spaces and are often crowded with members of the public and visitors to the Santa Barbara area and since these areas provide only limited public amenities, such as public seating and outdoor dining areas. The Council further finds that, because these areas of Santa Barbara often have thousands of visitors each day and because there is limited public seating and gathering areas available within these blocks

of these streets, it is necessary and appropriate to provide panhandling regulations which prevent some persons from monopolizing the use of a public bench or a public seating area for actively panhandling. There is therefore a necessity for the City Council to adopt City regulations which provide for the shared and reasonable use of these public facilities by all members of the public, especially the elderly and persons with special access needs.

Finally, the City Council believes that these City panhandling regulations will not prevent those persons who wish to properly solicit alms or charitable donations from appropriately using public benches and public seating facilities within these areas of the City for temporary respite purposes nor will these panhandling regulations impact the content of any protected forms of expressive statements made by a panhandler or otherwise improperly restrict anyone's First Amendment rights.

9.50.020 Definitions.

The following words or phrases as used in this Chapter shall have the following meanings:

A. Panhandling.

1. Forms of Panhandling. Panhandling may occur in two forms as follows:

a. Active Panhandling. Any verbal request made by one person to another person seeking a direct response of an immediate donation of money or other item of value.

b. Passive Panhandling. The act of only passively displaying a sign or using any other non-verbal indication that a person is seeking donations without addressing a verbal request or solicitation to any specific person, other than in response to an inquiry from that person.

B. Donation. A gift of money or other item of value and including the purchase of an item for an amount far exceeding its value under circumstances where a reasonable person would understand that the purchase is in substance a gift.

C. Abusive Panhandling. To do one or more of the following acts while engaging in panhandling or immediately thereafter:

1. Blocking or impeding the passage or the free movement of the person panhandled;
2. Following the person panhandled by proceeding behind, ahead or alongside of him or her after the person panhandled declines to make a donation;
3. Threatening, either by word or gesture, the person panhandled with physical harm or an assault;
4. Abusing the person being panhandled with words which are offensive and inherently likely to provoke an immediate violent reaction;
5. Touching the person being panhandled without that person's consent; or
6. Engaging in Active Panhandling in any of the prohibited places or under any of circumstances specified in subparagraph B of section 9.50.030 hereof.

9.50.030 Abusive Panhandling Prohibited; Specific Locations of Where Active Panhandling is Restricted.

A. Abusive Panhandling Prohibited. Abusive Panhandling is unlawful and prohibited entirely within the city of Santa Barbara.

B. Active Panhandling Restricted. Active Panhandling is prohibited when the person being panhandled is in any of the following locations:

1. Waiting at a bus stop;
2. In a vehicle on a public street or alleyway;
3. In a City parking lot or parking structure without regard to whether the person is in a vehicle or not;
4. Within an outdoor dining area of a restaurant or other dining establishment serving food for immediate consumption;
5. Within twenty five-feet of an automated bank teller machine; or

6. In a queue of persons waiting to gain admission to a place of business or to a vehicle, or waiting to purchase an item or admission ticket.

9.50.040 Use of Public Benches and Facilities on Certain Streets for Active Panhandling.

Active Panhandling is prohibited while seated on or otherwise using a public bench or seating area (including any landscape planter or other public street furniture which can be sat upon) within the following areas of the City:

1. **State Street.** On either side of State Street from the 400 block to the 1200 block; or
2. **Milpas Street.** Either side of Milpas Street from the 00 South block to the 200 block North; or
3. **Cabrillo Boulevard.** Cabrillo Boulevard between Castillo Street and Milpas Street.

9.50.050 Penalty for Abusive Panhandling.

Any person who engages in abusive panhandling as defined herein shall be guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed one thousand dollars (\$1000) or be imprisoned for a period not to exceed six months, or both. Other violations of this chapter shall be prosecuted in accordance with the requirements of Santa Barbara Municipal Code Section 1.28.010.

SECTION TWO: This ordinance shall not take effect unless and until the City Clerk of the City of Santa Barbara certifies the adoption of a resolution of the Council which resolution establishes an effective date for this ordinance and which acknowledges the establishment of a Santa Barbara "Alternative Giving" Campaign (as such a campaign is described in more detail in the City Council action of February 4, 2009) all in a manner acceptable to the City Council.